

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Firearm Owners Against Crime,	:	1:15-cv-322
Kim Stolfer, Joshua First, and	:	
Howard Bullock	:	
Plaintiffs	:	(Judge Kane)
v.	:	
City of Harrisburg,	:	
Mayor Eric Papenfuse, and	:	
Police Chief Thomas Carter,	:	
Defendants	:	Jury Trial Demanded

**Motion to Vacate State Default Judgment and
Enjoin State Court**

All Defendants ask this Court to vacate the default and enjoin the state court:

1. In spite of this Court's clear jurisdiction, the Prothonotary of the Dauphin County Court of Common Pleas entered a default judgment.
2. Notwithstanding that the fact that the Plaintiffs full complaint has been lodged with this Court, Plaintiffs argue to the state court and this Court that removal was procedurally defective due to defense counsel's error by inadvertently leaving Howard Bullock out of the caption.
3. It is for this Court—not the state court—to determine whether removal was proper and whether to permit amendment of the notice of removal.
4. Defense counsel has sought concurrence from Plaintiffs' counsel who indicated that Plaintiffs oppose this motion.

For these reasons, this Court should vacate the state court default and enjoin the court from acting further.

Respectfully submitted,

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s/ Frank J. Lavery

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and Chief Carter

March 12, 2015

Certificate of Service

I certify that on this date, I served a true and correct copy of this filing through this Court's ECF to the following:

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s/ Amyra W. Wagner
Amyra W. Wagner
Legal Assistant to Josh Autry

Dated: March 12, 2015